UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,833	03/30/2004	Erwin Haller	08146.0001U1	3114

23859 7590 07/19/2007

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

EXAMINER	
WUJCIAK, ALFRED J	
ART UNIT	**PAPER NUMBER**
3632	

MAIL DATE	DELIVERY MODE
07/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/812,833	HALLER, ERWIN	
	Examiner	Art Unit	
	Alfred Joseph Wujciak III	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *5/4/07*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13 and 15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This is the final Office Action for the serial number 10/812,833, DEVICE AND METHOD FOR SPRINGING A VEHICLE SEAT, filed on 3/30/04.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 4, "vehicle seat" is indefinite because it cites combination/subcombination problem. "Vehicle seat" is not positively cited in preamble of claim 1.

Claims 1 and 11, lines 13-14, "the volume in which the air to be compressed is reduced" is indefinite because it is not possible for compressed air to be reduced if the switched is off (claim 1, line 11). There has be a way for the compressed air to be reduced by leaving the container/tank/reservoir/etc. The compressed air cannot be reduced if it remains in container/tank/reservoir/etc.

Claims 2-10 are rejected as depending on rejected claim 1 and claim 12-13 and 15 are rejected as depending on rejected claim 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # Re. 35,572 to Lloyd et al.

Lloyd et al. teaches a spring device (figure 4) having at least one air spring (48, 138) arranged between a seat part (50) and a lower part (40) for height adjustment. The device includes a control device (102) for supplying air to the spring. The device includes means (104) of control device that control the air flow to the valve. Furthermore, Lloyd et al. teaches the range of force-path air spring characteristic (columns 2 and 5-6). The device includes at least one pneumatic directional control valve (142) for supplying the additional air volume. The device includes an adjustment device (54,56) for the automatic height adjustment of the seat part at the start a use operation by a user having a predefined weight. The device in Llyod's invention has the ability of controlling the air volume supplied to air spring in comfort range of travel and the air volume is being blocked/switched off by the control device (see column 2 lines 7-49 and columns 5-6).

The use of the product as disclosed by Lloyd would inherently lead to the method steps of claims 11 and 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of US Patent # 6,237,889 to Bischoff.

Lloyd et al. teaches the adjustment device but fails to teach the adjustment device includes a regulator switch that is arranged in the region of the armrest of the vehicle seat. Bischoff teaches the regulator switch (210) that is arranged in the region of the armrest of seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the regulator switch to Lloyd et al.'s adjustment device as taught by Bischoff to provide control in the adjustment device to increase or decrease the damping pressure of the adjustment device.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of US Patent # 5,574,424 to Nguyen.

Lloyd et al. teaches the device but fails to teach the device includes a recognition device. Nguyen teaches the recognition device (18) for recognizing a user using the seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the recognition device to Lloyd et al.'s device as taught by Nguyen to provide a time saving from adjusting the seat to meet the user's expectation for comfort of seating.

Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al.

Lloyd et al. teaches the device provides air volume control in the spring but fails to teach the additional air volume is supplied or discharged greater than 0.11 in the first range of the force-path air spring characteristic and is either 0.01 or greater than 0.01 in the further range. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the air volume control to 0.11 in supply or discharge and 0.01 or greater than 0.01 in the further range to increase comfort for a rider when the external impact occurs on the vehicle.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of US Patent # 5,574,424 to Nguyen.

Lloyd et al. teaches the device but fails to teach the device includes a recognition device. Nguyen teaches the recognition device (18) for recognizing a user using the seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the recognition device to Lloyd et al.'s device as taught by Nguyen to provide a time saving from adjusting the seat to meet the user's expectation for comfort of seating.

Response to Arguments

Applicant's arguments filed 5/4/07 have been fully considered but they are not persuasive.

The applicant disagrees with examiner's 112 2nd paragraph regarding lack of antecedent basis for "vehicle seat" because it is recited in preamble of claim 1, line 1. The examiner disagrees with the applicant because the 112 rejection is based on combination/subcombination

not lack of antecedent basis. Since claim 1, line 1, "for a vehicle seat" is not positively cited, claim 1, lines 4, "wherein the vehicle seat" is a positively recited which cause combination/subcombination problem.

The applicant states "the distinction between Lloyd, et al. and the present application is that Lloyd, et al. introduces air to the air spring when the travel of the seat is downward and releases air from air spring when the travel of the seat is upward (see col. 5, line 63 to col. 6, line 5 of Lloyd, et al.); whereas, the present invention switches off the additional air supply both when the seat moves upward or downward beyond the predefined comfort zone where the additional air supply is switched on." The examiner disagrees with the applicant because Lloyd, et al. and this present invention teach similar concept for providing comfort to a user when seating in vehicle. Both of inventions have the ability to control the air in the air spring to provide comfort when a vehicle is being struck by external impact such as pot-hole. The valve (102) in Lloyd, et al.'s invention is considered as "switch" that controls the air from the air spring to provide comfort range or out of comfort range. The compressed air can be reduced by control the switch (valve) as explained in Lloyd, et al.'s specification of invention.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III
Primary Examiner
Art Unit 3632

A. JOSEPH WUJCIAK III
PRIMARY EXAMINER
TECHNOLOGY CENTER

7/13/07